

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 5,911,134 to Castonguay, et al. (hereinafter "Castonguay") in view of U.S. Patent No. 6,044,355 to Crockett, et al. (hereinafter "Crockett"). In response, Applicants respectfully submit that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination recited in the third, fourth, fifth, and sixth elements of independent Claims 1 and 10.

Castonguay was cited as fully disclosing Applicants' invention recited in independent Claims 1 and 10, except merely for the teachings of the third, fourth, fifth, and sixth elements of independent Claims 1 and 10, for which Crockett has been cited.

In their previous arguments filed on April 23, 2002, Applicants have argued that Crockett does not cure the deficiencies of the Castonguay disclosure. However, the Examiner finds this argument unpersuasive and maintains the previous rejections of Claims 1-18 under 35 U.S.C. § 103(a). In response to Applicants' previous remarks, the Examiner asserts that Crockett does teach a difference value that is equivalent to the Applicants', and cures the deficiencies of Castonguay accordingly. To support this assertion, the Examiner cites Crockett in various places: (1) steps 10 and 12 of Figure 1, (2) Col. 6, lines 2-3, (3) Col. 5, line 49, and (4) Col. 8, line 41-47 and Figure 2 (refinement loop from ACD simulator 38 to net staffing array 30).

Applicants respectfully submit that Crockett's net staff array or skills-based array is not equivalent to Applicants' difference value between a plurality of schedules and each agent's preference. The Examiner appears to argue that the net staff and/or skills-based arrays in Crockett may be further refined to include agent preferences, and therefore that the net staff and/or skills-based arrays in Crockett are equivalent to Applicants' difference value. Specifically, Crockett discloses in Col. 8, lines 41-43 that, if desired, individual scheduled agents may then "trade" work and break times to better match preferences (all in a known manner). This, however, does not lead to the conclusion that Crockett's net staff array and/or skills-based array represent the difference value between a plurality of schedules and each agent's preference, as recited in Applicants' independent Claims 1 and 10. Therefore, Crockett fails to teach or

suggest that either net staff array or skills-based array may be obtained from the difference between a plurality of schedules and each agent's preference.

Applicants respectfully submit that the rejection based on Crockett impermissibly uses hindsight. Given that there is no teaching or suggestion of a difference value between a plurality of schedules and each agent's preference, this rejection simply borrows the suggestion from first reviewing the claims of Applicants. Construction of Applicants' invention, in this way, without a suggestion in the prior art, effectively uses Applicants' own innovations as a basis for rejection. Applicants thus respectfully request withdrawal of this rejection.

As the Examiner acknowledges, Castonguay fails to disclose not only the difference value itself but also other limitations of Applicants' independent Claims 1 and 10. Such other limitations are recited in the fourth, fifth, and sixth elements of Claims 1 and 10. Nowhere (including the locations (1)-(4) in Crockett specifically cited by the Examiner) does Crockett teach or suggest the fourth, fifth and sixth elements of independent Claims 1 and 10. The Examiner asserts that the refinement loop (in Figure 2 of Crockett from ACD simulator 38 to net staffing array 30) incorporates agent preferences into the net staff and skills based arrays and the associated difference values. To the contrary, Applicants submit that the refinement loop of Crockett does not incorporate agent preferences into the net staff and skills based arrays and the associated difference values. In fact, nowhere does Crockett teach or suggest how this can be done. Therefore, Crockett fails to teach or suggest the fourth, fifth and sixth elements of independent Claims 1 and 10.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination recited in independent Claims 1 and 10. It is therefore submitted that Claims 1 and 10 clearly and precisely distinguish over the cited combinations of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1 and 10 under 35 U.S.C. § 103 as being unpatentable over Castonguay in view of Crockett be withdrawn.

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Claims 2-9 and 11-18 depend from and further limit independent Claims 1 and 10, in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejection of dependent Claims 2-9 and 11-18 be withdrawn, as well.

Applicants have reviewed the additional references cited as of general interest, and have concluded that the references do not prejudice the patentability of the invention recited by the present claims. For this reason and the reason that they have not been applied against Applicants' claims, no further discussion of them is deemed necessary.

Enclosed is a check in the amount of \$110.00 for a one (1) month's extension of time to respond. Applicants do not believe any other fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of Carr Law Firm, L.L.P.


Applicants have now made an earnest attempt to place the application in condition for allowance. Therefore, Applicants respectfully request, for the reasons set forth herein and for other reasons clearly apparent, full allowance of Claims 1-18 so that the application may be passed to issue.

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Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,



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